IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 13451 of 2002

Between:

Smt Parupalli Padmaja, W/o late Venkata

Choudary, Fair Price Shop Dealer for

Shop No.1, Madhira, Khammam District.

..... PETITIONER

AND

1.The Revenue Divisional Officer, Khammam.

2. The Joint Collector, Khammam.

3. The Mandal Revenue Officer, Madhira,

Khammam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the 1st respondent in not permitting the petitioner to continue as Fair Price Shop Dealer No.1, Madhira, Khammam District, by completing the enquiry as illegal, arbitrary, unjust and violative of principles of natural

justice and against to the Article-21 of the Constitution of India and consequently, revoke the suspension order, dated 01.03.2002, of the 1st respondent and pass such other order or orders.

Counsel for the Petitioner: MR.B.DEVANAND

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following:

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ORDER:

Heard both sides.

The petitioner herein by way of writ of Mandamus seeks to declare the action of the respondents in not permitting him to continue as Fair Price Shop dealer of Shop No.1, Madhira, Khammam District, by completing the enquiry as contemplated under the law, as illegal and arbitrary.

According to the petitioner, initially, his authorization of the Fair Price Shop dealership was suspended on 01.03.2002 on certain allegations. Thereupon, the petitioner has filed an appeal on 16.04.2002, which was ultimately disposed on 28.05.2002 with directions to the 1st respondent to complete the enquiry at the earliest. However, no such enquiry was conducted or there is any such completion.

Therefore, the petitioner had approached this Court and obtained interim direction mainly on the ground that continued suspension without any enquiry is bad as held by this Court in A.NEELIMA Vs. THE JOINT COLLECTOR, KURNOOL.

However, later on, in the counter-affidavit filed by the 3rd respondent it

is stated that in fact the petitioner's dealership of the said Fair Price Shop was already cancelled on 02.04.202 and the same was sought to be served on 18.04.2002. But, the learned counsel for the petitioner contended that the said statement that there was service of the orders of cancellation on the petitioner is not correct and in fact, even today no orders of cancellation is served on the petitioner. Hence the grievance.

Repelling the allegations as made by the petitioner, it is submitted on behalf of the respondents that having regard to the fact that petitioner's application was already cancelled, he has to approach the appellate authority by filing an appeal and further, having regard to the nature of allegation, the petitioner is not entitled to any interference by this Court.

Having considered the submissions made and also on perusal of the material on record, it is seen that the petitioner's suspension is not only a continued one but is also without any enquiry. Even till today, in spite of the directions given by the appellate authority in the order, dated 28.5.2002, no enquiry was conducted and it is only in the counter-affidavit filed by the respondents, the petitioner was informed about the orders of cancellation of his Fair Price Shop dealership on 02.04.2002 itself. Even apparently, there was no enquiry conducted affording sufficient opportunity to the petitioner to contest the same.

Having regard to the same that there is no such service of the cancellation order of dealership on the petitioner, as contended by the petitioner, it is sufficient in the interest of justice to direct the respondents herein to once again send a copy of the order, dated 02.04.2002, cancelling the Fair Price Shop dealership of the petitioner, so as to enable him to file an appeal and challenge the same.

In the circumstances, the writ petition is disposed of. The petitioner shall file an appeal before the authority concerned within a period of 30 days from the date of service of the said order, dated 02.04.2002, and the same shall be disposed of on merits within a period of three months from the date of filing of the appeal. It is needless to mention

that till the disposal of the appeal, the interim directions granted for continuance of the petitioner as a dealer of the said Fair Price Shop shall continue to remain in force. No costs.

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B.PRAKASH RAO, J

30.08.2004

DR

To

1.The Revenue Divisional Officer, Khammam.

2. The Joint Collector, Khammam.

3. The Mandal Revenue Officer, Madhira,

Khammam District.

4 Two CCs to Government Pleader for Civil Supplies,

High Court Buildings, Hyderabad. (OUT)

5 Two CD copies.